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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/063,333	04/20/1998	MICHAEL D. ELLIS	UV-44	4270

7590

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EXAMINER

TUNDRA, DIMITRI

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 02/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/063,333

Applicant(s)

ELLIS ET AL.

Examiner

Dimitri Tundra

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 - 2, 19 - 20, 23 - 28, 37 - 38, 56, 58 - 64 is/are rejected.
- 7) ☒ Claim(s) 3 - 18, 21 - 22, 29 - 36, 39 - 55, 57, 65 - 72 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Specification

Col. 11, ln. 12 refers to Fig. 5, while according to the following description, it should refer to Fig. 7. Correction requested.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 – 2, 19, 23 – 28, 37 – 38, 58 – 64 are rejected under 35 U.S.C. 102(e) as being unpatentable by Lazarus et al. (US 5652613).

Regarding claims 1 and 37, Lazarus et al. shows an interactive television program guide system in which an interactive television program guide is implemented on user television equipment (col.1, ln. 14 – 26), comprising:

memory in the user television equipment in which program guide data is stored for use by the interactive television program guide (col. 3, ln. 19 – 44, where “television equipment” includes a settop box);

means for receiving information on the amount of memory for the interactive television program guide to use to store the program guide data (col. 4, ln. 16 – 18); and

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means for adjusting the amount of memory used by the interactive television program guide to store the program guide data in response to the received information (two subroutines are used for adjusting the memory for the EPG: "find and delete" and "memory triage" – see fig. 1).

Regarding claims 2, 28, 38 and 64, Lazarus et al. shows the interactive television program guide system defined in claim 1, wherein different categories of program guide data are stored in the memory (the categories include "long title", "information record", "short title" and so on. See col. 5, ln. 22 - 53), the interactive television program guide system further comprising means for reallocating the memory among the different categories of program guide data when the amount of memory used to store the program guide data is adjusted (when the amount of memory is insufficient, certain items from the categories "long title" and "information record" are eliminated to reallocate the memory for more important EPG data – col. 5, ln. 40 – 53).

Regarding claim 19, Lazarus et al. shows the interactive television program guide system defined in claim 1, wherein the program guide data stored in the memory corresponds to a given television channel line-up (col. 1, ln. 14 – 26) and wherein the means for adjusting further comprises means for allocating the memory among the different categories of program guide data when the amount of stored program guide data is adjusted (col. 1, ln. 49 – 52, where "adjusted" corresponds to "managed") in response to an addition of new channels to the given television channel line-up (col. 1, ln. 44 – 47, where "new channels" correspond to "volume of programming").

Regarding claim 23, Lazarus et al. shows an interactive television program guide system in which an interactive television program guide is implemented on user television equipment (col. 1, ln. 14 – 26), comprising:

memory in the user television equipment in which program guide data for a given memory configuration is stored for use by the interactive television program guide (col. 1, ln. 27 – 34);
means for receiving program guide data for a new memory configuration (col. 1, ln. 34 – 36);
and

means for reconfiguring the memory to accommodate the program guide data for the new memory configuration (Lazarus et al. shows reconfiguring the memory by deleting expired records and deleting the least available information from the memory to make space for the new bigger EPG. See fig. 1).

Regarding claims 24 and 60, Lazarus et al. shows the interactive television program guide system defined in claim 23 and 59 respectively, wherein said given memory configuration further comprises a given channel lineup (inherent to the EPG).

Regarding claim 25 and 61, Lazarus et al. shows the interactive television program guide system defined in claim 24 and 60 respectively, wherein said new memory configuration further comprises a new channel line-up (it is inherent that when the EPG is updated, col. 1, ln. 34 – 36, the updated lineup will be displayed).

Regarding claim 26 and 62, Lazarus et al. shows the interactive television program guide system defined in claim 23 and 59 respectively, wherein said program guide data further comprises program descriptions (col. 5, ln. 22 – 39).

Regarding claim 27 and 63, Lazarus et al. shows the interactive television program guide system defined in claim 26 and 62 respectively, wherein said new memory configuration further

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comprises modified program descriptions (the modification is done by deleting some Long Title and Information Records to accommodate the extended EPG – col. 5, ln. 40 – 53).

Regarding claim 58, Lazarus et al. shows the method defined in claim 37 further comprising detecting the addition of new channels to the given television channel line-up (col. 1, ln. 44 – 47 discuss that the memory size is correlated to the number of channels – “volume of programming information”. It is inherent that the new channels have to be detected when they are downloaded into the memory).

Regarding claim 59, Lazarus et al. shows memory reconfiguration method for use in an interactive television program guide system in which an interactive television program guide is implemented on user television equipment that has memory in which program data for a given memory configuration is stored (col. 1, ln. 14 – 22, 32 – 36), comprising:

receiving program guide data for a new memory configuration (col. 1, ln. 27 – 32); and
reconfiguring the memory to accommodate the program guide data for the new memory configuration (reconfiguring is done by deleting the outdated data and certain Long Title and Information Records, as shown in fig. 2 and col. 5, ln. 40 – 53).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill

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in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lazarus et al. (US 5652613) in view of Sturges (US 5930827).

Regarding claims 20 and 56, Lazarus et al. shows the interactive television program guide system defined in claim 1. Lazarus et al. shows that the application can be stored in the same memory as the EPG (col. 3, ln. 13 – 16), but he does not show freeing the EPG for the purpose of adding the new software to the memory. Yet it is well known in the art to reallocate or deallocate one portion of the memory, occupied by one application in order to give it to another application (Sturges's whole patent describes one way of doing it. Particularly, see col. 6, ln. 46 – col. 7, ln. 46). It would have been obvious for one of ordinary skill in the art to modify Lazarus et al. by having means for adjusting further comprising means for adjusting the amount of memory used to store the program guide data to accommodate installation of a new application in the user television equipment, as taught by Sturges, in order to use the total limited memory of the settop box more efficiently.

Allowable Subject Matter

Claims 3 – 18, 21 – 22, 29 – 36, 39 – 55, 57, 65 – 72 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 3 and 29, 39, and 65, Lazarus et al. shows the interactive television program guide system defined in claim 2, 28, 38, 64, respectively, but fails to show means for reallocating the

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memory **based on information in a database configuration record**, which makes this claim allowable if rewritten in the independent form.

Claims 4 – 18, 30 – 36, 40 – 54, 66 – 72 are objected to as being dependent on the objected claim 3, 29, 39, and 65 respectively.

Regarding claims 21 and 57, the closest prior art, Lazarus et al., shows the interactive television program guide system defined in claim 1, wherein the program guide data stored in the memory corresponds to a given television channel line-up (inherent to the EPG, in fact it is part of the definition of the EPG), but fails to show the interactive television program guide system further comprising means for determining an amount of memory available for each of the different categories of program guide data after the addition of new channels, wherein the means for adjusting the memory adjusts based on the amounts of 10 memory that are determined to be available. These limitations make the claim allowable if rewritten in independent form.

Regarding claims 22 and 55, the closest prior art, Lazarus et al., shows the interactive television program guide system defined in claim 1, wherein the program guide data stored in the memory corresponds to a given television channel line-up, but fails to show the interactive television program guide system further comprising means for detecting a change in the amount of channels offered in the television channel line-up, which makes this claim allowable if rewritten in the independent form.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Anderson et al. (US 6005631) shows using only a portion of an EPG to save memory in the settop box.

Naimpally (US 6020880) shows saving only a portion of the EPG based on the program categories and the user profile.

Tarakado et al. (US 6311329) groups EPG data based on types, and stores those types accordingly.

Hallenbeck (US 5038211) shows memory reallocation in the EPG.

Sturges (US 5930827) shows the memory reallocation in RAM.

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Contact Fax Information

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or Faxed to:

(703) 372-9314, (for formal communication intended for entry)

or:

(703) 308-5399, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dimitri Tundra whose telephone number is (703) 605-4246. The examiner can normally be reached Monday – Thursday, 8:30AM – 6:00PM and every even week of the month on Friday 8:30 AM – 5:00PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-5399.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



**ANDREW FAILE
SUPERVISORY PATENT EXAMINER
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DT:dt
February 21, 2002